

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL CASE NO. 3:97cr250

UNITED STATES OF AMERICA,)

)

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vs.

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ANTONIO STEVEN STROMAN.)

_____)

ORDER

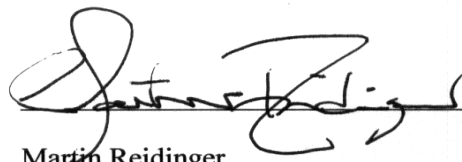
THIS MATTER is before the Court on the Defendant's *pro se* Motion to Reduce Imposed Sentence Pursuant to 18 U.S.C. §3582(c)(2) [Doc. 56, filed March 4, 2008] and his Motion for Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) filed by counsel [Doc. 69, filed January 6, 2009].

As stated by the Probation Office in the Supplement to the Presentence Report pursuant to Crack Cocaine Guideline Amendment, the Defendant faced a statutory mandatory minimum sentence of life imprisonment due to two prior felony drug convictions for which the Government filed notice pursuant to 21 U.S.C. §851. [Doc. 50]. Although the sentencing court departed downward from that mandatory sentence pursuant to U.S.S.G. §5K1.1 and 18 U.S.C. §3553(e), the notice pursuant

to §851 was never withdrawn. As a result, the Defendant's sentence was based on the mandated statutory minimum sentence, not a sentencing range authorized by the Sentencing Guidelines section setting forth offense levels for crack cocaine. United States v. Hood, ___ F.3d ___, 2009 WL 416979 (4th Cir. 2009). Thus, the Defendant is not entitled to a reduced sentence under 18 U.S.C. §3582(c)(2) which authorizes modification of a sentence based on a sentencing range subsequently lowered by the Sentencing Commission. Id. Indeed, if Amendment 706 had been in place at the original sentencing, the guideline sentence would have remained the statutory mandatory minimum. Id. Therefore the amendment has no impact on the Defendant's sentence. Id.

IT IS, THEREFORE, ORDERED that the Defendant's *pro se* Motion to Reduce Imposed Sentence Pursuant to 18 U.S.C. §3582(c)(2) [Doc. 56] and his Motion for Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) [Doc. 69] are hereby **DENIED**.

Signed: April 6, 2009


Martin Reidinger
United States District Judge

